

REMARKS/ARGUMENTS

Applicants amend claim 25 to correct a grammatical error and remove an inadvertent instance of “a”. Applicants request entry of this minor correction.

1. Claims 24, 25, 27, 29, 31, 35-49 is Patentable Over the Cited Art

The Examiner rejected claims 24, 25, 27, 29, 31, 35-49 as obvious (35 U.S.C. §103) over Hiltgen (U.S. Patent Pub. No. 2004/0181529) in view of Benhase (U.S. Patent Pub. No. 2004/0243945). Applicants traverse for the following reasons.

Applicants submit that under 35 U.S.C. §103(c), the Examiner cannot combine Benhase with other art, such as Hiltgen, in an obviousness rejection because Benhase and the present application were at the time the present invention was made, owned by or subject to an obligation of assignment to a common assignee, International Business Machines Corporation “(IBM)”. Benhase comprises prior art under 35 U.S.C. §102(e) and under 35 U.S.C. §103(c) cannot be applied in an obviousness rejection against this application. Applicants submit that this statement provides the evidence required to establish common ownership according to MPEP 706.02(1)(2).

For these reasons, Applicants submit that the Examiner must withdraw the rejection combining Hiltgen with Benhase.

Applicant submits that the pending claims 24, 25, 27, 29, 31, and 35-49 are in condition for allowance. Should any additional fees be required, such as fees under 37 CFR §§1.16 and 1.17, please charge Deposit Account No. 09-0460.

The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

Dated: November 17, 2009

By: /David Victor/

David W. Victor
Registration No. 39,867
Tel: (310) 553-7977
Fax: 310-556-7984